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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,563

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Robert A. Emmett

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EXAMINER

WANG, JACK K

ART UNIT

PAPER NUMBER

2612

MAIL DATE

DELIVERY MODE

07/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,563	Applicant(s) EMMETT ET AL.	
	Examiner JACK WANG	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see applicant argument/remarks, filed 5/19/2008, with respect to drawing have been fully considered and are persuasive. The objection of drawing has been withdrawn.
2. Applicant's arguments filed 5/19/2008 have been fully considered but they are not persuasive.
3. With respect to claim 11, applicant indicated as claim 1, since the claim 1 has been cancelled; the claim "1" has been interpreted as claim --11-- for the purpose of proper response to the arguments. Applicant argues that the Zarybnicky and Korody combined references does not operative to provide continuous display for indicating a wear condition for one inner brake pad and one outer brake pad and providing a continuous differentiation wear display showing the difference in wear between the inner and outer pad; and where the secondary display device is operative to display at least one functionality display for the vehicle brakes. The examiner respectfully disagrees. As Zarybnicky disclosed (Column 11 lines 49-60) "A method according to the present invention includes continuously monitoring signals from each of the brake actuators 26a-26f associated with the vehicle at the control box 22. The control box 22 is operable to receive the signals 28 and make determinations as to whether a particular brake needs adjustment or repair. The determinations are displayed on the display 24 on the vehicle cab", in addition to the disclosed reference provide Korody. Since the limitation claimed by applicant has been fully satisfy among Zarybnicky and Korody combined references, which the signal does indicate the actual amount of wear, not only indicates that wear beyond a

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predetermined limit has occurred as indicated by applicant. Therefore, the prior art is comprises a function of being able to derive a situation (service required) as present by Korody, and also capable to providing clear and unambiguous indication of the continuous progression up to and during the occurrence as indicated by Zarybnicky.

4. With respect to claims 12-20, applicant argues that claims 12-20 are ultimately dependent on claim 11, and thus, are believed to be in condition for allowance for at least the same reasons. The examiner respectfully disagrees with same reason set forth above respect to claim 11.

Response to Amendment

5. Claims 1-10 Cancelled.

6. Claims 11-20 Pending.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zarybnicky, Sr. et al. (US Patent # 5,825,287) (already of record), and further in view of Korody (US Patent # 4,850,454).

Consider claim 11, Zarybnicky Sr. et al. clearly shown and disclose a brake pad wear indicator device having a connection for coupling the device to an external wear sensor (actuator) (26a-26f, Fig. 1A) associated with brake pads of vehicle brakes, a power source (inherent) for supplying power to the device and primary and secondary display devices (24, Fig.

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1B) operative to indicate wear of the pads, wherein said primary display device is operative to provide continuous display for indicating a wear condition; and where the secondary display device is operative to display at least one functionality display for the vehicle brakes. (Column 4 lines 17-33) except display one inner brake pad and one outer brake pad and providing a continuous differentiation wear display showing the difference in wear between the inner and outer pad.

In the same field of endeavor, Korody teaches one inner brake pad and one outer brake pad and providing a continuous differentiation wear display showing the difference in wear between the inner and outer pad (Column 2 lines 20-47) for the benefit of providing the vehicle operator with an appropriate warning that the brake pads need to be serviced.

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include display one inner brake pad and one outer brake pad and providing a continuous differentiation wear display showing the difference in wear between the inner and outer pad as shown in Korody, in Zarybnicky Sr. et al. device for the benefit of providing the vehicle operator with an appropriate warning that the brake pads need to be serviced.

Consider claim 12, Zarybnicky Sr. et al. clearly shown and discloses the brake pad wear indicator device wherein the primary display device has a continual wear display for a drum brake (Column 3 lines 37-42).

Consider claim 13, Zarybnicky Sr. et al. clearly shown and disclose the brake pad wear indicator device wherein the primary display device has a continual summary total wear display for the total of all wear (24, Fig. 1B) except the information on the inner pad and the outer pad.

In the same field of endeavor, Korody teaches the information on the inner pad and the outer pad (Column 2 lines 20-47) for the benefit of providing the vehicle operator with an appropriate warning that the brake pads need to be serviced.

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the information on the inner pad and the outer pad as shown in Korody, in Zarybnicky Sr. et al. device for the benefit of providing the vehicle operator with an appropriate warning that the brake pads need to be serviced.

Consider claim 14, Zarybnicky Sr. et al. clearly shown and disclose the brake pad wear indicator device wherein the functionality display of the secondary display device is associated with a parking brake (Column 2 lines 35-40).

Consider claim 15, Zarybnicky Sr. et al. clearly shown and disclose the brake pad wear indicator device, wherein the functionality display of the secondary display device is associated with a brake adjustment status (Column 3 lines 18-20).

Consider claim 16, Zarybnicky Sr. et al. clearly shown and disclose the brake pad wear indicator device, wherein the functionality display of the secondary display device is associated with a brake failure state (Column 2 lines 59-62).

Consider claim 17, Zarybnicky Sr. et al. clearly shown and disclose the brake pad wear indicator device including a housing (control box 22) (Column 11 lines 52-54).

Consider claim 18 and 19, Zarybnicky Sr. et al. teaches similar invention except the brake pad wear indicator device, including a first function button (switch) connection to the electronic processing unit operative to activate or to invoke the display of the first display device and a second function button connected to the electronic processing unit operative to activate to

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invoke the display of the second display device. Although Zarybnicky Sr. et al. does not specifically disclose a first function button and second function button. He does disclose a display contains plurality information related to brake conditions (24, Fig. 1B). Since Zarybnicky Sr. et al. device are capable of display the information relate to the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use well know switching scheme such as first button and second button to display the desired information, which the selection of switch are design choice for the particular application.

Consider claim 20, Zarybnicky Sr. et al. clearly shown and disclose the brake pad wear indicator device wherein the displays of the first display device and/or the displays of the second display device may be activated concurrently to display at the same time (24, Fig. 1B).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JACK WANG whose telephone number is (571)272-1938. The examiner can normally be reached on M-F 8:00AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffery Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JKW/

/Jeff Hofsass/

Supervisory Patent Examiner, Art Unit 2612